

SENATE MOTION

MADAM PRESIDENT:

I move that Engrossed House Bill 1050 be amended to read as follows:

- 1 Page 3, between lines 11 and 12, begin a new paragraph and
- 2 insert:
- 3 "SECTION 1. IC 36-7-4-208, AS AMENDED BY P.L.173-2003,
- 4 SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 5 JULY 1, 2004]: Sec. 208. (a) ADVISORY. The county plan
- 6 commission consists of nine (9) members, as follows:
- 7 (1) One (1) member appointed by the county executive from its
- 8 membership.
- 9 (2) One (1) member appointed by the county fiscal body from its
- 10 membership.
- 11 (3) The county surveyor or the county surveyor's designee.
- 12 (4) The county agricultural extension educator. However, if the
- 13 county does not have a county agricultural extension educator,
- 14 the county extension board shall select a resident of the county
- 15 who is a property owner with agricultural interest to serve on the
- 16 commission under this subdivision for a period not to exceed one
- 17 (1) year.
- 18 (5) Five (5) members appointed in accordance with one (1) of
- 19 the following:
- 20 (A) Four (4) citizen members, of whom no more than two
- 21 (2) may be of the same political party. ~~and all~~ **Each of the**
- 22 four (4) ~~of whom members must be~~ **be** residents of
- 23 ~~unincorporated areas~~ of the county;
- 24 appointed by the county executive. Also one (1) township
- 25 trustee, who must be a resident of an unincorporated area of
- 26 the county appointed by the county executive upon the
- 27 recommendation of the township trustees whose townships

are within the jurisdiction of the county plan commission.

(B) Five (5) citizen members, of whom not more than three (3) may be of the same political party. ~~and all~~ **Each of the** five (5) ~~of whom members must be~~ **be** residents of ~~unincorporated areas of the county;~~ **county** appointed by the county executive.

If a county executive changes the plan commission from having members described in clause (B) to having members described in clause (A), the county executive shall appoint a township trustee to replace the first citizen member whose term expires and who belongs to the same political party as the township trustee. Each member appointed to the commission is entitled to receive compensation for mileage at the same rate and the same compensation for services as a member of a county executive, a member of a county fiscal body, a county surveyor, or an appointee of a county surveyor receives for serving on the commission, as set forth in section 222.5 of this chapter.

(b) ADVISORY. The metropolitan plan commission consists of nine (9) members, as follows:

(1) One (1) member appointed by the county legislative body from its membership.

(2) One (1) member appointed by the second class city legislative body from its membership.

(3) Three (3) citizen members who ~~are residents of~~ **reside in** ~~unincorporated areas of~~ the county of whom no more than two (2) may be of the same political party, appointed by the county legislative body. One (1) of these members must be actively engaged in farming.

(4) Four (4) citizen members, of whom no more than two (2) may be of the same political party, appointed by the second class city executive. One (1) of these members must be from the metropolitan school authority or community school corporation and a resident of that school district, and the other three (3) members must be residents of the second class city.

(c) AREA. When there are six (6) county representatives, they are as follows:

(1) One (1) member appointed by the county executive from its membership.

(2) One (1) member appointed by the county fiscal body from its membership.

(3) The county superintendent of schools, or if that office does not exist, a representative appointed by the school corporation superintendents within the jurisdiction of the area plan commission.

(4) One (1) of the following appointed by the county executive:

(A) The county agricultural extension educator.

(B) The county surveyor or the county surveyor's designee.

(5) One (1) citizen member who is a resident of the unincorporated area of the county appointed by the county executive.

(6) One (1) citizen member who is a resident of the unincorporated area of the county appointed by the county fiscal body.

(d) AREA. When there are five (5) county representatives, they are the representatives listed or appointed under subsection (c)(3), (c)(4), (c)(5), and (c)(6) and:

(1) the county surveyor or the county surveyor's designee if the county executive appoints the county agricultural extension educator under subsection (c)(4); or

(2) the county agricultural extension educator if the county executive appoints the county surveyor under subsection (c)(4).

(e) AREA. The appointing authority may appoint an alternate member to participate on a commission established under section 204 of this chapter in a hearing or decision if the regular member it has appointed is unavailable. An alternate member shall have all of the powers and duties of a regular member while participating on the commission.

SECTION 2. IC 36-7-4-214 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 214. (a) ADVISORY. When a municipal plan commission exercises jurisdiction outside the incorporated area of the municipality as provided for in section 205 of the advisory planning law, the executive of the county in which the unincorporated area is located shall appoint two (2) additional citizen members to the municipal plan commission. The citizen members must:

(1) reside in the unincorporated ~~area area~~; and

(2) not be of the same political party.

(b) ADVISORY. Initially, one (1) member under subsection (a) shall be appointed for a term of one (1) year and the other for a term of four (4) years. Thereafter, each appointment is for a term of four (4) years. The additional citizen members are entitled to participate and vote in all deliberations of the municipal plan commission.

(c) ADVISORY. If the unincorporated area referred to in subsection (a) lies in two (2) counties, the executive of each of those counties shall appoint one (1) of the additional citizen members. The executive of the county having the larger proportion of the unincorporated area shall appoint its member first, and the executive of the other county shall then appoint its member, who must not be of the same political party.

SECTION 3. IC 36-7-4-215 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 215. ADVISORY. In addition to the requirements of section 214 of this chapter, the executive of the county may also appoint as members of a town plan commission additional representatives ~~from~~ **who reside in** the unincorporated jurisdictional area, if the executive believes the additional representation is justifiable. The number of appointments shall be determined as follows:

(1) Two (2) citizen members, if the population of the jurisdictional area appears to be at least fifty percent (50%) but not more than one hundred percent (100%) of the population of

1 the town itself.

2 (2) Four (4) citizen members, if the population of the
3 jurisdictional area appears to be greater than that of the town
4 itself.

5 These additional members must have the same qualifications and are
6 entitled to the same terms and privileges as prescribed for the additional
7 members appointed under section 214 of this chapter.

8 SECTION 4. IC 36-7-4-216 IS AMENDED TO READ AS
9 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 216. (a) Each citizen
10 member shall be appointed because of the member's knowledge and
11 experience in community affairs, the member's awareness of the social,
12 economic, agricultural, and industrial problems of the area, and the
13 member's interest in the development and integration of the area.

14 (b) A citizen member may not hold other elective or appointive
15 office in municipal, county, or state government, except in the case of
16 an area plan commission membership on the school board, the park
17 board, or the board of directors for public utilities or board of trustees
18 for utilities created under IC 8-1-11.1.

19 (c) Except as provided in subsection (d), a citizen member must
20 be a resident of the jurisdictional area of the plan commission.

21 (d) A citizen member representing the county must be a
22 resident of that county.

23 SECTION 5. IC 36-7-4-902 IS AMENDED TO READ AS
24 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 902. (a) ADVISORY.
25 Each division of the advisory board of zoning appeals consists of five
26 (5) members as follows:

27 (1) Three (3) citizen members appointed by the executive of the
28 municipality or county, of whom one (1) must be a member of
29 the plan commission and two (2) must not be members of the
30 plan commission.

31 (2) One (1) citizen member appointed by the fiscal body of the
32 municipality or county, who must not be a member of the plan
33 commission.

34 (3) One (1) member appointed by the plan commission from the
35 plan commission's membership, who must be a county
36 agricultural agent or a citizen member of the plan commission
37 other than the member appointed under subdivision (1).

38 (b) ADVISORY. In each county having a metropolitan plan
39 commission, subsection (a) does not apply. In such a county, each
40 division of the advisory board of zoning appeals consists of five (5)
41 members as follows:

42 (1) Two (2) members, of whom no more than one (1) may be of
43 the same political party, appointed by the county legislative body.

44 (2) Three (3) members, of whom no more than two (2) may be
45 of the same political party, appointed by the second class city
46 executive. One (1) only of these members must be a member of
47 the plan commission.

48 (c) AREA. When the area board of zoning appeals was established
49 before January 1, 1984, as a seven (7) member board, the board

1 consists of seven (7) members as follows:

2 (1) Two (2) citizen members appointed by the area plan
3 commission from its membership, one (1) of whom must be a
4 municipal representative and the other must be a county
5 representative.

6 (2) Three (3) citizen members, who may not be members of any
7 plan commission, appointed by the executive of the largest
8 municipality in the county. However, if there are two (2) or more
9 municipalities having a population of at least twenty thousand
10 (20,000) in the county, the executive of the largest municipality
11 shall appoint two (2) citizen members and the executive of the
12 second largest municipality shall appoint one (1) citizen member.
13 Furthermore, if there are no cities in the county participating in
14 the commission, then the three (3) members appointed under this
15 subdivision shall be appointed as follows:

16 (A) One (1) member appointed by the county executive.

17 (B) One (1) member appointed by the county fiscal body.

18 (C) One (1) member appointed by the legislative bodies of
19 those towns participating in the commission.

20 (3) Two (2) citizen members, who may not be members of any
21 plan commission, appointed by the county legislative body.

22 (d) AREA. Except as provided in subsection (c), each division of
23 the area board of zoning appeals consists of five (5) members as
24 follows:

25 (1) One (1) citizen member appointed by the area plan
26 commission from its membership.

27 (2) One (1) citizen member, who may not be a member of any
28 plan commission, appointed by the executive of the largest
29 municipality in the county participating in the commission.

30 (3) Two (2) citizen members, of whom one (1) must be a
31 member of the area plan commission and one (1) must not be a
32 member of any plan commission, appointed by the county
33 legislative body.

34 (4) One (1) citizen member, who may not be a member of any
35 plan commission, appointed by the executive of the second
36 largest municipality in the county participating in the commission.
37 However, if there is only one (1) municipality in the county
38 participating in the commission, then the county legislative body
39 shall make this appointment.

40 (e) METRO. Each division of the metropolitan board of zoning
41 appeals consists of five (5) members as follows:

42 (1) Two (2) citizen members appointed by the executive of the
43 consolidated city.

44 (2) Two (2) citizen members appointed by the legislative body of
45 the consolidated city.

46 (3) One (1) citizen member, who may also be a member of the
47 metropolitan development commission, appointed by the
48 commission.

49 (f) METRO. The municipal board of zoning appeals for an

1 excluded city consists of five (5) members as follows:

2 (1) Three (3) citizen members appointed by the legislative body
3 of the excluded city.

4 (2) Two (2) citizen members, who may also be members of the
5 metropolitan development commission, appointed by the
6 commission.

7 (g) Whenever the zoning ordinance provides for a certain division
8 of the board of zoning appeals to have limited territorial jurisdiction, it
9 must also provide for that division to consist of members who are ~~all~~
10 residents of that limited ~~territory~~ **territory**. Those members shall be
11 appointed in the same manner that is prescribed by subsection (a) for
12 divisions of an advisory board of zoning appeals, but if the plan
13 commission is unable to make its appointment in that manner, the
14 appointment shall be made instead by the legislative body.

15 SECTION 6. IC 36-7-4-903, AS AMENDED BY P.L.216-1999,
16 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
17 JULY 1, 2004]: Sec. 903. ADVISORY. (a) When a municipal plan
18 commission exercises jurisdiction outside the incorporated area of the
19 municipality as provided for in section 205 or 1208 of the advisory
20 planning law, either:

21 (1) an additional division of the board of zoning appeals shall be
22 established under section 901(b) of this chapter that will have
23 territorial jurisdiction only in the unincorporated area and consist
24 only of residents of the unincorporated ~~area~~ **area**; or

25 (2) the municipal plan commission shall designate, as its
26 appointment to the municipal board of zoning appeals under
27 section 902(a)(3) of this chapter, one (1) of the two (2) citizen
28 members who were appointed under section 214 of this chapter
29 to the plan commission to represent the unincorporated area. The
30 citizen member must reside in the unincorporated ~~area~~ **He area**.

31 **The citizen** shall be appointed for a term of four (4) years. ~~He~~
32 **The citizen** is entitled to participate and vote in all deliberations
33 of the municipal board of zoning appeals.

34 (b) Notwithstanding section 902(g) of this chapter, if the zoning
35 ordinance provides for an additional division of the board of zoning
36 appeals under subsection (a)(1), the ordinance may also provide for the
37 appointment of one (1) or more members of that division by elected
38 officials of the county or township.

39 SECTION 7. IC 36-7-4-905 IS AMENDED TO READ AS
40 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 905. (a) None of the
41 members of a board of zoning appeals may hold other elective or
42 appointive office, except as permitted by section 902 of this chapter, in
43 municipal, county, or state government.

44 (b) **Subject to subsection (c)**, a member must be a resident of the
45 jurisdictional area of the board.

46 (c) **A citizen member representing the county must be a**
47 **resident of that county.**

48 SECTION 8. IC 36-7-5.1-25 IS AMENDED TO READ AS

1 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 25. (a) A member of the
2 joint district board of zoning appeals may hold no other elective or
3 appointive office in municipal, county, or state government, except as
4 permitted by IC 36-7-4-902.

5 (b) A member of the joint district board of zoning appeals must:

6 **(1)** be a resident of a county where a part of the joint district is
7 located; or

8 **(2)** reside within ten (10) miles of the borders of the joint ~~district,~~
9 **district. "**

10 Renumber all SECTIONS consecutively.

(Reference is to EHB 1050 as printed February 20, 2004.)

Senator LONG